

## § 416.635

our designation of a particular representative payee is based and submit additional evidence.

(b) If you, your legal guardian, or your legal representative objects to representative payment or to the designated payee, we will handle the objection as follows:

(1) If you disagree with the decision and wish to file an appeal, we will process it under subpart N of this part.

(2) If you received your advance notice by mail and you protest or file your appeal within 10 days after you receive the notice, we will delay the action until we make a decision on your protest or appeal. (If you received and signed your notice while you were in the local field office, our decision will be effective immediately.)

[69 FR 60238, Oct. 7, 2004]

### § 416.635 What are the responsibilities of your representative payee?

A representative payee has a responsibility to—

(a) Use the benefits received on your behalf only for your use and benefit in a manner and for the purposes he or she determines under the guidelines in this subpart, to be in your best interests;

(b) Keep any benefits received on your behalf separate from his or her own funds and show your ownership of these benefits unless he or she is your spouse or natural or adoptive parent or stepparent and lives in the same household with you or is a State or local government agency for whom we have granted an exception to this requirement;

(c) Treat any interest earned on the benefits as your property;

(d) Notify us of any event or change in your circumstances that will affect the amount of benefits you receive, your right to receive benefits, or how you receive them;

(e) Submit to us, upon our request, a written report accounting for the benefits received on your behalf, and make all supporting records available for review if requested by us;

(f) Notify us of any change in his or her circumstances that would affect performance of his/her payee responsibilities; and

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(g) Ensure that you are receiving treatment to the extent considered medically necessary and available for the condition that was the basis for providing benefits (see § 416.994a(i)) if you are under age 18 (including cases in which your low birth weight is a contributing factor material to our determination that you are disabled).

[71 FR 61408, Oct. 18, 2006]

### § 416.640 Use of benefit payments.

(a) *Current maintenance.* We will consider that payments we certify to a representative payee have been used for the use and benefit of the beneficiary if they are used for the beneficiary's current maintenance. Current maintenance includes costs incurred in obtaining food, shelter, clothing, medical care and personal comfort items.

*Example:* A Supplemental Security Income beneficiary is entitled to a monthly benefit of \$264. The beneficiary's son, who is the representative payee, disburses the benefits in the following manner:

Rent and Utilities .....	\$166
Medical .....	20
Food .....	60
Clothing .....	10
Miscellaneous .....	8

The above expenditures would represent proper disbursements on behalf of the beneficiary.

(b) *Institution not receiving Medicaid funds on beneficiary's behalf.* If a beneficiary is receiving care in a Federal, State, or private institution because of mental or physical incapacity, current maintenance will include the customary charges for the care and services provided by an institution, expenditures for those items which will aid in the beneficiary's recovery or release from the institution, and nominal expenses for personal needs (e.g., personal hygiene items, snacks, candy) which will improve the beneficiary's condition. Except as provided under § 416.212, there is no restriction in using SSI benefits for a beneficiary's current maintenance in an institution. Any payments remaining from SSI benefits may be used for a temporary period to maintain the beneficiary's residence outside of the institution unless a physician has certified that the beneficiary is not likely to return home.